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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,150	10/21/2003	Jordan R. Silverstein	5853-312	3918

30448 7590 06/02/2005

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EXAMINER

HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/690,150	SILVERSTEIN ET AL.	
	Examiner	Art Unit	
	James S Hogan	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,11-13,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 3,7-10,14-19 and 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show how the bladder device is to be inserted into an activated sprinkler head, and its plausible end result position as described in the specification. Every feature specified in the claims must be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 21 rejected under 35 U.S.C. 102(a) as being anticipated by U.S.

Patent 5,743,337 to MacDonald III.

Regarding claim 1, MacDonald III ('337) discloses a bladder (282), and the method of using a bladder, adapted to fit (once installed as shown) between a support structure (288) of a fire sprinkler and an exhaust port (not numbered) for the purpose of sealing the exhaust port of the fire sprinkler.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 4, 5, 6, 12, 13, and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,743,337 to MacDonald III in view of U.S. Patent 4,423,829 to Katz.

MacDonald III ('337) teaches a bladder (282) adapted to fit (once installed as shown) between a support structure (288) of a fire sprinkler and an exhaust port (not numbered) for the purpose of sealing the exhaust port of the fire. MacDonald III ('337) does not teach the use of a valve at the inlet of a flexible bladder, a clamp, or an inner bladder. Katz ('829) teaches a valve assembly (53) (see Fig 7) coupled to a device having a bladder (36). As per claims 4 and 19 a clamp (17) couples the bladder to the valve. As for claims 5 and 13, an alternate embodiment of the Katz ('829) device,

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Figures 8-11, shows a version with an outer bladder (36) having an inner bladder (88). Additionally, as per claim 6 and 12, the inner bladder (88) is constructed of materials impermeable to fluids (polypropylene). It would have been obvious of one skilled in the art to modify MacDonald III ('337) with the inner bladder, valve, and clamp of Katz in order to have a device that can seal a fire sprinkler once the fire sprinkler is activated.

In response to applicant's argument that the examiner's conclusion of obviousness of claims 11 and 20 is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Referring to claims 11 and 20, official notice is still taken to the claim that an invention's outer bladder be given a wear resistant coating. It would have been obvious to one skilled in the art at the time the invention was made to have considered the hostile environment of a burning structure and a fire-fighter's toolbox environment and to have coated the outside cover of a fire discharge control device with a wear resistant coating.

Allowable Subject Matter

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Claims 3,7-10, 14-19, and 22-25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 4,222,499 to Lee et al disclosing a pressurized fluid dispensing apparatus

U.S. Patent No. 4,419,096 to Leeper et al. disclosing an elastomeric bladder assembly

U.S. Patent No. 4,735,239 to Salmon, disclosing a liquid projecting device

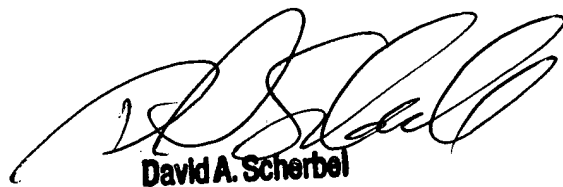
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH
05/20/2005



David A. Scherbel
Supervisory Patent Examiner
Group 3700